

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 491

Introduced by Assembly Member Gonzalez

February 23, 2015

An act to amend ~~Section~~ *Sections 313.5 and 52052* of the Education Code, relating to English learners.

LEGISLATIVE COUNSEL'S DIGEST

AB 491, as amended, Gonzalez. English learners: ~~proficiency assessment; report.~~ *reclassification.*

~~Existing~~

(1) Existing law required the State Department of Education, by January 1, 2014, to review and analyze the criteria, policies, and practices that a sampling of school districts that represent the geographic, socioeconomic, and demographic diversity of school districts in the state use to reclassify English learners and recommend to the Legislature and State Board of Education any guideline, regulatory, or statutory changes that the department determines are necessary to identify when English learners are prepared for the successful transition to classrooms and curricula that require English proficiency. Existing law required the department to issue, by January 1, 2014, a report that includes specified findings, research, analysis, recommendations, and best practices.

~~This bill would make nonsubstantive changes to these provisions.~~

This bill would additionally require the department, by July 1, 2016, to recommend, and the state board to adopt, the department's recommendations and best practices pursuant to the department's recommendations in the report referenced above.

(2) Existing law requires the Superintendent of Public Instruction, with the approval of the state board, to develop an Academic Performance Index, as specified, to measure the performance of schools and school districts. Existing law requires schools and school districts to demonstrate comparable improvement in academic achievement as measured by the Academic Performance Index by all numerically significant pupil subgroups at the school or school district, including ethnic subgroups, socioeconomically disadvantaged pupils, English learners, pupils with disabilities, and foster youth.

This bill would add reclassified English learners to the list of numerically significant pupil subgroups designated in this provision. To the extent that this provision would impose new duties on schools and school districts, it would constitute a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 313.5 of the Education Code is amended
- 2 to read:
- 3 313.5. (a) By January 1, 2014, the department shall review
- 4 and analyze the criteria, policies, and practices that a sampling of
- 5 school districts that represent the geographic, socioeconomic, and
- 6 demographic diversity of school districts in the state use to
- 7 reclassify English learners, and recommend to the Legislature and
- 8 state board any guideline, regulatory, or statutory changes that the
- 9 department determines are necessary to identify when English
- 10 learners are prepared for the successful transition to classrooms
- 11 and curricula that require English proficiency.
- 12 (b) For purposes of completing the review and analysis required
- 13 pursuant to subdivision (a), the department shall consult with
- 14 parents of English learners, experts with demonstrated experience

1 in developing and administering assessments for English learners,
2 classroom or resource teachers, or both, school district
3 administrators with expertise in curriculum, instruction, assessment,
4 and accountability, and researchers possessing expertise in the
5 education of English learners.

6 (c) The group of experts described in subdivision (b) shall
7 develop a study design that may include a sampling methodology
8 for purposes of selecting the school districts that will be part of
9 the review and analysis to identify best practices pursuant to
10 subdivision (a).

11 (d) For purposes of completing the review and analysis required
12 pursuant to subdivision (a), the department shall examine and
13 report on the following:

14 (1) The practices and standards used by a sampling of school
15 districts that represent the geographic, socioeconomic, and
16 demographic diversity of school districts in the state to meet the
17 four reclassification criteria specified in subdivision (f) of Section
18 313.

19 (2) The extent to which school districts are following the
20 guidelines established by the state board.

21 (3) The range of reclassification criteria developed by school
22 districts.

23 (e) As part of the examination required pursuant to subdivision
24 (d), the department shall analyze the following:

25 (1) English language proficiency and academic performance
26 data.

27 (2) The relationship of the reclassification criteria to
28 reclassification rates.

29 (3) The academic performance of pupils after reclassification
30 as English proficient.

31 (4) The relationship of the reclassification criteria to the
32 academic performance of pupils after reclassification.

33 (f) In its report, the department also shall identify any other
34 pupil outcome measures that indicate an English learner is prepared
35 to successfully transition to a classroom and curricula that require
36 English proficiency.

37 (g) By January 1, 2014, the department shall issue a report that
38 includes the department's findings, research, analysis,
39 recommendations, and best practices pursuant to subdivisions (a),
40 (d), (e), and (f).

1 (h) By July 1, 2016, the department shall recommend, and the
2 state board shall adopt, the department's recommendations and
3 best practices pursuant to subdivisions (a), (d), (e), and (f), as
4 reported pursuant to subdivision (g).

5 ~~(h)~~

6 (i) By January 1, 2017, the department shall issue an updated
7 report that reflects any changes in analysis and recommendations
8 as a result of the adoption by the state board of the common core
9 standards pursuant to Section 60605.8 and the English language
10 development standards adopted pursuant to former Section
11 60811.3, as that section read on June 30, ~~2013~~, 2013, or Section
12 60811.4.

13 ~~(i)~~

14 (j) This section shall be implemented only if state or federal
15 funds are appropriated as necessary to fully fund this purpose or
16 if private funds are made available as necessary to fully fund this
17 purpose.

18 SEC. 2. Section 52052 of the Education Code is amended to
19 read:

20 52052. (a) (1) The Superintendent, with *the* approval of the
21 state board, shall develop an Academic Performance Index (API),
22 to measure the performance of schools and school districts,
23 especially the academic performance of pupils.

24 (2) A school or school district shall demonstrate comparable
25 improvement in academic achievement as measured by the API
26 by all numerically significant pupil subgroups at the school or
27 school district, ~~including:~~ including all of the following:

28 (A) Ethnic subgroups.

29 (B) Socioeconomically disadvantaged pupils.

30 (C) English learners.

31 (D) Pupils with disabilities.

32 (E) Foster youth.

33 (F) *Reclassified English learners.*

34 (3) (A) For purposes of this section, a numerically significant
35 pupil subgroup is one that consists of at least 30 pupils, each of
36 whom has a valid test score.

37 (B) Notwithstanding subparagraph (A), for a subgroup of pupils
38 who are foster youth, a numerically significant pupil subgroup is
39 one that consists of at least 15 pupils.

1 (C) For a school or school district with an API score that is
2 based on no fewer than 11 and no more than 99 pupils with valid
3 test scores, numerically significant pupil subgroups shall be defined
4 by the Superintendent, with *the* approval ~~by~~ of the state board.

5 (4) (A) The API shall consist of a variety of indicators currently
6 reported to the department, including, but not limited to, the results
7 of the achievement test administered pursuant to Section 60640,
8 attendance rates for pupils in elementary schools, middle schools,
9 and secondary schools, and the graduation rates for pupils in
10 secondary schools.

11 (B) The Superintendent, with the approval of the state board,
12 may also incorporate into the API the rates at which pupils
13 successfully promote from one grade to the next in middle school
14 and high school, and successfully matriculate from middle school
15 to high school.

16 (C) Graduation rates for pupils in secondary schools shall be
17 calculated for the API as follows:

18 (i) Four-year graduation rates shall be calculated by taking the
19 number of pupils who graduated on time for the current school
20 year, which is considered to be three school years after the pupils
21 entered grade 9 for the first time, and dividing that number by the
22 total calculated in clause (ii).

23 (ii) The number of pupils entering grade 9 for the first time in
24 the school year three school years before the current school year,
25 plus the number of pupils who transferred into the class graduating
26 at the end of the current school year between the school year that
27 was three school years before the current school year and the date
28 of graduation, less the number of pupils who transferred out of the
29 school between the school year that was three school years before
30 the current school year and the date of graduation who were
31 members of the class that is graduating at the end of the current
32 school year.

33 (iii) Five-year graduation rates shall be calculated by taking the
34 number of pupils who graduated on time for the current school
35 year, which is considered to be four school years after the pupils
36 entered grade 9 for the first time, and dividing that number by the
37 total calculated in clause (iv).

38 (iv) The number of pupils entering grade 9 for the first time in
39 the school year four years before the current school year, plus the
40 number of pupils who transferred into the class graduating at the

1 end of the current school year between the school year that was
2 four school years before the current school year and the date of
3 graduation, less the number of pupils who transferred out of the
4 school between the school year that was four years before the
5 current school year and the date of graduation who were members
6 of the class that is graduating at the end of the current school year.

7 (v) Six-year graduation rates shall be calculated by taking the
8 number of pupils who graduated on time for the current school
9 year, which is considered to be five school years after the pupils
10 entered grade 9 for the first time, and dividing that number by the
11 total calculated in clause (vi).

12 (vi) The number of pupils entering grade 9 for the first time in
13 the school year five years before the current school year, plus the
14 number of pupils who transferred into the class graduating at the
15 end of the current school year between the school year that was
16 five school years before the current school year and the date of
17 graduation, less the number of pupils who transferred out of the
18 school between the school year that was five years before the
19 current school year and the date of graduation who were members
20 of the class that is graduating at the end of the current school year.

21 (D) The inclusion of five- and six-year graduation rates for
22 pupils in secondary schools shall meet the following requirements:

23 (i) Schools and school districts shall be granted one-half the
24 credit in their API scores for graduating pupils in five years that
25 they are granted for graduating pupils in four years.

26 (ii) Schools and school districts shall be granted one-quarter the
27 credit in their API scores for graduating pupils in six years that
28 they are granted for graduating pupils in four years.

29 (iii) Notwithstanding clauses (i) and (ii), schools and school
30 districts shall be granted full credit in their API scores for
31 graduating in five or six years a pupil with disabilities who
32 graduates in accordance with his or her individualized education
33 program.

34 (E) The pupil data collected for the API that comes from the
35 achievement test administered pursuant to Section 60640 and the
36 high school exit examination administered pursuant to Section
37 60851, when fully implemented, shall be disaggregated by special
38 education status, English learners, socioeconomic status, gender,
39 and ethnic group. Only the test scores of pupils who were counted
40 as part of the enrollment in the annual data collection of the

1 California Basic Educational Data System for the current fiscal
2 year and who were continuously enrolled during that year may be
3 included in the test result reports in the API score of the school.

4 (F) (i) Commencing with the baseline API calculation in 2016,
5 and for each year thereafter, results of the achievement test and
6 other tests specified in subdivision (b) shall constitute no more
7 than 60 percent of the value of the index for secondary schools.

8 (ii) In addition to the elements required by this paragraph, the
9 Superintendent, with *the* approval of the state board, may
10 incorporate into the index for secondary schools valid, reliable,
11 and stable measures of pupil preparedness for postsecondary
12 education and career.

13 (G) Results of the achievement test and other tests specified in
14 subdivision (b) shall constitute at least 60 percent of the value of
15 the index for primary schools and middle schools.

16 (H) It is the intent of the Legislature that the state's system of
17 public school accountability be more closely aligned with both the
18 public's expectations for public education and the workforce needs
19 of the state's economy. It is therefore necessary that the
20 accountability system evolve beyond its narrow focus on pupil test
21 scores to encompass other valuable information about school
22 performance, including, but not limited to, pupil preparedness for
23 college and career, as well as the high school graduation rates
24 already required by law.

25 (I) The Superintendent shall annually determine the accuracy
26 of the graduation rate data. Notwithstanding any other law,
27 graduation rates for pupils in dropout recovery high schools shall
28 not be included in the API. For purposes of this subparagraph,
29 "dropout recovery high school" means a high school in which 50
30 percent or more of its pupils have been designated as dropouts
31 pursuant to the exit/withdrawal codes developed by the department
32 or left a school and were not otherwise enrolled in a school for a
33 period of at least 180 days.

34 (J) To complement the API, the Superintendent, with the
35 approval of the state board, may develop and implement a program
36 of school quality review that features locally convened panels to
37 visit schools, observe teachers, interview pupils, and examine pupil
38 work, if an appropriation for this purpose is made in the annual
39 Budget Act.

1 (K) The Superintendent shall annually provide to local
2 educational agencies and the public a transparent and
3 understandable explanation of the individual components of the
4 API and their relative values within the API.

5 (L) An additional element chosen by the Superintendent and
6 the state board for inclusion in the API pursuant to this paragraph
7 shall not be incorporated into the API until at least one full school
8 year after the state board's decision to include the element into the
9 API.

10 (b) Pupil scores from the following tests, when available and
11 when found to be valid and reliable for this purpose, shall be
12 incorporated into the API:

13 (1) The standards-based achievement tests provided for in
14 Section 60642.5.

15 (2) The high school exit examination.

16 (c) Based on the API, the Superintendent shall develop, and the
17 state board shall adopt, expected annual percentage growth targets
18 for all schools based on their API baseline score from the previous
19 year. Schools are expected to meet these growth targets through
20 effective allocation of available resources. For schools below the
21 statewide API performance target adopted by the state board
22 pursuant to subdivision (d), the minimum annual percentage growth
23 target shall be 5 percent of the difference between the actual API
24 score of a school and the statewide API performance target, or one
25 API point, whichever is greater. Schools at or above the statewide
26 API performance target shall have, as their growth target,
27 maintenance of their API score above the statewide API
28 performance target. However, the state board may set differential
29 growth targets based on grade level of instruction and may set
30 higher growth targets for the lowest performing schools because
31 they have the greatest room for improvement. To meet its growth
32 target, a school shall demonstrate that the annual growth in its API
33 is equal to or more than its schoolwide annual percentage growth
34 target and that all numerically significant pupil subgroups, as
35 defined in subdivision (a), are making comparable improvement.

36 (d) Upon adoption of state performance standards by the state
37 board, the Superintendent shall recommend, and the state board
38 shall adopt, a statewide API performance target that includes
39 consideration of performance standards and represents the
40 proficiency level required to meet the state performance target.

1 (e) (1) A school or school district with 11 to 99 pupils with
2 valid test scores shall receive an API score with an asterisk that
3 indicates less statistical certainty than API scores based on 100 or
4 more test scores.

5 (2) A school or school district annually shall receive an API
6 score, unless the Superintendent determines that an API score
7 would be an invalid measure of the performance of the school or
8 school district for one or more of the following reasons:

9 (A) Irregularities in testing procedures occurred.

10 (B) The data used to calculate the API score of the school or
11 school district are not representative of the pupil population at the
12 school or school district.

13 (C) Significant demographic changes in the pupil population
14 render year-to-year comparisons of pupil performance invalid.

15 (D) The department discovers or receives information indicating
16 that the integrity of the API score has been compromised.

17 (E) Insufficient pupil participation in the assessments included
18 in the API.

19 (F) A transition to new standards-based assessments
20 compromises comparability of results across schools or school
21 districts. The Superintendent may use the authority in this
22 subparagraph in the 2013–14 and 2014–15 school years only, with
23 *the* approval of the state board.

24 (3) If a school or school district has fewer than 100 pupils with
25 valid test scores, the calculation of the API or adequate yearly
26 progress pursuant to the federal No Child Left Behind Act of 2001
27 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be
28 calculated over more than one annual administration of the tests
29 administered pursuant to Section 60640 and the high school exit
30 examination administered pursuant to Section 60851, consistent
31 with regulations adopted by the state board.

32 (4) Any school or school district that does not receive an API
33 calculated pursuant to subparagraph (F) of paragraph (2) shall not
34 receive an API growth target pursuant to subdivision (c). Schools
35 and school districts that do not have an API calculated pursuant
36 to subparagraph (F) of paragraph (2) shall use one of the following:

37 (A) The most recent API calculation.

38 (B) An average of the three most recent annual API calculations.

1 (C) Alternative measures that show increases in pupil academic
2 achievement for all groups of pupils schoolwide and among
3 significant subgroups.

4 (f) Only schools with 100 or more test scores contributing to
5 the API may be included in the API rankings.

6 (g) The Superintendent, with the approval of the state board,
7 shall develop an alternative accountability system for schools under
8 the jurisdiction of a county board of education or a county
9 superintendent of schools, community day schools, nonpublic,
10 nonsectarian schools pursuant to Section 56366, and alternative
11 schools serving high-risk pupils, including continuation high
12 schools and opportunity schools. Schools in the alternative
13 accountability system may receive an API score, but shall not be
14 included in the API rankings.

15 (h) For purposes of this section, county offices of education
16 shall be considered school districts.

17 *SEC. 3. If the Commission on State Mandates determines that*
18 *this act contains costs mandated by the state, reimbursement to*
19 *local agencies and school districts for those costs shall be made*
20 *pursuant to Part 7 (commencing with Section 17500) of Division*
21 *4 of Title 2 of the Government Code.*